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American Institute of Certified Public Accountants

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# Concepts of Professional Ethics

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## Rules of Conduct

of the Code of  
Professional Ethics  
as amended January 6, 1983

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## Bylaws

and Implementing  
Resolutions of Council  
as amended May 10, 1983



**AICPA**

American Institute of Certified Public Accountants

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# AICPA

American Institute of Certified Public Accountants

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# Concepts of Professional Ethics

*“Concepts of Professional Ethics” is a philosophical essay approved by the professional ethics division. The essay suggests behavior which CPAs should strive for beyond the minimum level of acceptable conduct set forth in the Rules of Conduct. It has not been subjected to vote of the membership and is not intended to establish enforceable standards.*

# Concepts of Professional Ethics

## Introduction

A man should *be* upright; not be *kept* upright.

MARCUS AURELIUS

A distinguishing mark of a professional is his acceptance of responsibility to the public. All true professions have therefore deemed it essential to promulgate codes of ethics and to establish means for ensuring their observance.

The reliance of the public, the government and the business community on sound financial reporting and advice on business affairs, and the importance of these matters to the economic and social aspects of life impose particular obligations on certified public accountants.

Ordinarily those who depend upon a certified public accountant find it difficult to assess the quality of his services; they have a right to expect, however, that he is a person of competence and integrity. A man or woman who enters the profession of accountancy is assumed to accept an obligation to uphold its principles, to work for the increase of knowledge in the art and for the improvement of methods, and to abide by the profession's ethical and technical standards.

The ethical Code of the American Institute emphasizes the profession's responsibility to the public, a responsibility that has grown as the number of investors has grown, as the relationship between corporate managers and stockholders has become more impersonal and as government increasingly relies on accounting information.

The Code also stresses the CPA's responsibility to clients and colleagues, since his behavior in these relationships cannot fail to affect the responsibilities of the profession as a whole to the public.

The Institute's Rules of Conduct set forth minimum levels of acceptable conduct and are mandatory and enforceable. However, it is in the best interests of the profession that CPAs strive for conduct beyond that indicated merely by prohibitions. Ethical conduct, in the true sense, is more than merely abiding by the letter of explicit prohibitions. Rather it requires unswerving commitment to honorable behavior, even at the sacrifice of personal advantage.

The conduct toward which CPAs should strive is embodied in five broad concepts stated as affirmative Ethical Principles:

**Independence, integrity and objectivity.** A certified public accountant should maintain his integrity and objectivity and, when engaged in the practice of public accounting, be independent of those he serves.

**General and technical standards.** A certified public accountant should observe the profession's general and technical standards and strive continually to improve his competence and the quality of his services.

**Responsibilities to clients.** A certified public accountant should be fair and candid with his clients and serve them to the best of his ability, with professional concern for their best interests, consistent with his responsibilities to the public.

**Responsibilities to colleagues.** A certified public accountant should conduct himself in a manner which will promote cooperation and good relations among members of the profession.

**Other responsibilities and practices.** A certified public accountant should conduct himself in a manner which will enhance the stature of the profession and its ability to serve the public.

The foregoing Ethical Principles are intended as broad guidelines as distinguished from enforceable Rules of Conduct. Even though they do not provide a basis for disciplinary action, they constitute the philosophical foundation upon which the Rules of Conduct are based.

The following discussion is intended to elaborate on each of the Ethical Principles and provide rationale for their support.

## **Independence, Integrity and Objectivity**

*A certified public accountant should maintain his integrity and objectivity and, when engaged in the practice of public accounting, be independent of those he serves.*

The public expects a number of character traits in a certified public accountant but primarily integrity and objectivity and, in the practice of public accounting, independence.

Independence has always been a concept fundamental to the accounting profession, the cornerstone of its philosophical structure. For no matter how competent any CPA may be, his opinion on financial statements will be of little value to those who rely on him—whether they be clients or any of his unseen audience of credit grantors, investors, governmental agencies and the like—unless he maintains his independence.

Independence has traditionally been defined by the profession as the ability to act with integrity and objectivity.

Integrity is an element of character which is fundamental to reliance on the CPA. This quality may be difficult to judge, however, since a

particular fault of omission or commission may be the result either of honest error or a lack of integrity.

Objectivity refers to a CPA's ability to maintain an impartial attitude on all matters which come under his review. Since this attitude involves an individual's mental processes, the evaluation of objectivity must be based largely on actions and relationships viewed in the context of ascertainable circumstances.

While recognizing that the qualities of integrity and objectivity are not precisely measurable, the profession nevertheless constantly holds them up to members as an imperative. This is done essentially by education and by the Rules of Conduct which the profession adopts and enforces.

CPAs cannot practice their calling and participate in the world's affairs without being exposed to situations that involve the possibility of pressures upon their integrity and objectivity. To define and proscribe all such situations would be impracticable. To ignore the problem for that reason, however, and to set no limits at all would be irresponsible.

It follows that the concept of independence should not be interpreted so loosely as to permit relationships likely to impair the CPA's integrity or the impartiality of his judgment, nor so strictly as to inhibit the rendering of useful services when the likelihood of such impairment is relatively remote.

While it may be difficult for a CPA always to appear completely independent even in normal relationships with clients, pressures upon his integrity or objectivity are offset by powerful countervailing forces and restraints. These include the possibility of legal liability, professional discipline ranging up to revocation of the right to practice as a CPA, loss of reputation and, by no means least, the inculcated resistance of a disciplined professional to any infringement upon his basic integrity and objectivity. Accordingly, in deciding which types of relationships should be specifically prohibited, both the magnitude of the threat posed by a relationship and the force of countervailing pressures have to be weighed.

In establishing rules relating to independence, the profession uses the criterion of whether reasonable men, having knowledge of all the facts and taking into consideration normal strength of character and normal behavior under the circumstances, would conclude that a specified relationship between a CPA and a client poses an unacceptable threat to the CPA's integrity or objectivity.

When a CPA expresses an opinion on financial statements, not only the fact but also the appearance of integrity and objectivity is of particular importance. For this reason, the profession has adopted rules to prohibit the expression of such an opinion when relationships exist which might pose such a threat to integrity and objectivity as to exceed



the strength of countervailing forces and restraints. These relationships fall into two general categories: (1) certain financial relationships with clients and (2) relationships in which a CPA is virtually part of management or an employee under management's control.

Although the appearance of independence is not required in the case of management advisory services and tax practice, a CPA is encouraged to avoid the proscribed relationships with clients regardless of the type of services being rendered. In any event, the CPA, in all types of engagements, should refuse to subordinate his professional judgment to others and should express his conclusions honestly and objectively.

The financial relationships proscribed when an opinion is expressed on financial statements make no reference to fees paid to a CPA by a client. Remuneration to providers of services is necessary for the continued provision of those services. Indeed, a principal reason for the development and persistence in the professions of the client-practitioner relationship and of remuneration by fee (as contrasted with an employer-employee relationship and remuneration by salary) is that these arrangements are seen as a safeguard of independence.

The above reference to an employer-employee relationship is pertinent to a question sometimes raised as to whether a CPA's objectivity in expressing an opinion on financial statements will be impaired by his being involved with his client in the decision-making process.

CPAs continually provide advice to their clients, and they expect that this advice will usually be followed. Decisions based on such advice may have a significant effect on a client's financial condition or operating results. This is the case not only in tax engagements and management advisory services but in the audit function as well.

If a CPA disagrees with a client on a significant matter during the course of an audit, the client has three choices—he can modify the financial statements (which is usually the case), he can accept a qualified report or he can discharge the CPA. While the ultimate decision and the resulting financial statements clearly are those of the client, the CPA has obviously been a significant factor in the decision-making process. Indeed, no responsible user of financial statements would want it otherwise.

It must be noted that when a CPA expresses an opinion on financial statements, the judgments involved pertain to whether the results of operating decisions of the client are fairly presented in the statements and not on the underlying wisdom of such decisions. It is highly unlikely therefore that being a factor in the client's decision-making process would impair the CPA's objectivity in judging the fairness of presentation.

The more important question is whether a CPA would deliberately compromise his integrity by expressing an unqualified opinion on financial statements which were prepared in such a way as to cover

up a poor business decision by the client and on which the CPA has rendered advice. The basic character traits of the CPA as well as the risks arising from such a compromise of integrity, including liability to third parties, disciplinary action and loss of right to practice, should preclude such action.

Providing advice or recommendations which may or may not involve skills logically related to a client's information and control system, and which may affect the client's decision-making, does not in itself indicate lack of independence. However, the CPA must be alert to the possibility that undue identification with the management of the client or involvement with a client's affairs to such a degree as to place him virtually in the position of being an employee, may impair the appearance of independence.

To sum up, CPAs cannot avoid external pressures on their integrity and objectivity in the course of their professional work, but they are expected to resist these pressures. They must, in fact, retain their integrity and objectivity in all phases of their practice and, when expressing opinions on financial statements, avoid involvement in situations that would impair the credibility of their independence in the minds of reasonable men familiar with the facts.

## **General and Technical Standards**

*A certified public accountant should observe the profession's general and technical standards and strive continually to improve his competence and the quality of his services.*

Since accounting information is of great importance to all segments of the public, all CPAs, whether in public practice, government service, private employment or academic pursuits, should perform their work at a high level of professionalism.

A CPA should maintain and seek always to improve his competence in all areas of accountancy in which he engages. Satisfaction of the requirements for the CPA certificate is evidence of basic competence at the time the certificate is granted, but it does not justify an assumption that this competence is maintained without continuing effort. Further, it does not necessarily justify undertaking complex engagements without additional study and experience.

A CPA should not render professional services without being aware of, and complying with, the applicable general or technical standards as interpreted by bodies designated by Council. Moreover, since published general and technical standards can never cover the whole field of accountancy, he must keep broadly informed.

Observance of the rule on general and technical standards calls for a determination by a CPA with respect to each engagement undertaken that there is a reasonable expectation it can be completed with the exercise of due professional care, with adequate planning and supervision and with the gathering of sufficient relevant data to afford a reasonable basis for conclusions and recommendations. If a CPA is unable to bring such professional competence to the engagement he should suggest, in fairness to his client and the public, the engagement of someone competent to perform the needed service, either independently or as an associate.

The standards referred to in the rules are elaborated and refined to meet changing conditions, and it is each CPA's responsibility to keep himself up to date in this respect.

## **Responsibilities to Clients**

*A certified public accountant should be fair and candid with his clients and serve them to the best of his ability, with professional concern for their best interests, consistent with his responsibilities to the public.*

As a professional person, the CPA should serve his clients with competence and with professional concern for their best interests. He must not permit his regard for a client's interest, however, to override his obligation to the public to maintain his independence, integrity and objectivity. The discharge of this dual responsibility to both clients and the public requires a high degree of ethical perception and conduct.

It is fundamental that the CPA hold in strict confidence all information concerning a client's affairs which he acquires in the course of his engagement. This does not mean, however, that he should acquiesce in a client's unwillingness to make disclosures in financial reports which are necessary to fair presentation.

Exploitation of relations with a client for personal advantage is improper. For example, acceptance of a commission from any vendor for recommending his product or service to a client is prohibited.

A CPA should be frank and straightforward with clients. While tact and diplomacy are desirable, a client should never be left in doubt about the CPA's position on any issue of significance. No truly professional man will subordinate his own judgment or conceal or modify his honest opinion merely to please. This admonition applies to all services including those related to management and tax problems.

When accepting an engagement, a CPA should bear in mind that he may find it necessary to resign if conflict arises on an important question of principle. In cases of irreconcilable difference, he will have

to judge whether the importance of the matter requires such an action. In weighing this question, he can feel assured that the practitioner who is independent, fair and candid is the better respected for these qualities and will not lack opportunities for constructive service.

## **Responsibilities to Colleagues**

*A certified public accountant should conduct himself in a manner which will promote cooperation and good relations among members of the profession.*

The support of a profession by its members and their cooperation with one another are essential elements of professional character. The public confidence and respect which a CPA enjoys is largely the result of the cumulative accomplishments of all CPAs, past and present. It is, therefore, in the CPA's own interest, as well as that of the general public, to support the collective efforts of colleagues through professional societies and organizations and to deal with fellow practitioners in a manner which will not detract from their reputation and well-being.

Although the reluctance of a professional to give testimony that may be damaging to a colleague is understandable, the obligation of professional courtesy and fraternal consideration can never excuse lack of complete candor if the CPA is testifying as an expert witness in a judicial proceeding or properly constituted inquiry.

A CPA has the obligation to assist his fellows in complying with the Code of Professional Ethics and should also assist appropriate disciplinary authorities in enforcing the Code. To condone serious fault can be as bad as to commit it. It may be even worse, in fact, since some errors may result from ignorance rather than intent and, if let pass without action, will probably be repeated. In situations of this kind, the welfare of the public should be the guide to a member's action.

While the Code proscribes certain specific actions in the area of relationships with colleagues, it should be understood that these proscriptions do not define the limits of desirable intraprofessional conduct. Rather, such conduct encompasses the professional consideration and courtesies which each CPA would like to have fellow practitioners extend to him.

It is natural that a CPA will seek to develop his practice. However, in doing so he should not seek to displace another accountant in a client relationship by any means which will lessen the effectiveness of his technical performance or lessen his concern for the rights of third parties to reliable information. Further, he should not act in any way that reflects negatively on fellow practitioners.



A CPA may provide service to those who request it, even though they may be served by another practitioner in another area of service, or he may succeed another practitioner at a client's request. In such circumstances it is always desirable and required in some situations before accepting an engagement that the CPA who has been approached should advise the accountant already serving the client. Such action is indicated not only by considerations of professional courtesy but by good business judgment.

A client may sometimes request services requiring highly specialized knowledge. If the CPA lacks the expertise necessary to render such services, he should call upon a fellow practitioner for assistance or refer the entire engagement to another. Such assistance or referral brings to bear on the client's needs both the referring practitioner's knowledge of the client's affairs and the technical expertise of the specialist brought into the engagement. If both serve the client best in their own area of ability, all parties are well served as is the public.

## **Other Responsibilities and Practices**

*A certified public accountant should conduct himself in a manner which will enhance the stature of the profession and its ability to serve the public.*

In light of the importance of their function, CPAs and their firms should have a keen consciousness of the public interest and the needs of society. Thus, they should support efforts to achieve equality of opportunity for all, regardless of race, religious background or sex, and should contribute to this goal by their own service relationships and employment practices.

The CPA is a beneficiary of the organization and character of his profession. Since he is seen as a representative of the profession by those who come in contact with him, he should behave honorably both in his personal and professional life and avoid any conduct that might erode public respect and confidence.

Solicitation to obtain clients through false, misleading and deceptive statements or acts is prohibited under the Rules of Conduct because it will lessen the professional effectiveness and the independence toward clients which is essential to the best interests of the public.

Advertising, which is false, misleading and deceptive, is also prohibited because such representations will mislead some of the public and thereby reduce or destroy the profession's usefulness to society. A CPA should seek to establish a reputation for competence and char-

acter, through actions rather than words. There are many ways this can be done such as by making himself known through public service, by civic and political activities, and by joining associations and clubs. It is desirable for him to share his knowledge with interested groups by accepting requests to make speeches and write articles. Whatever publicity occurs as a natural by-product of such activities is entirely proper.

In his work, the CPA should be motivated more by desire for excellence in performance than for material reward. This does not mean that he need be indifferent about compensation. Indeed, a professional man who cannot maintain a respectable standard of living is unlikely to inspire confidence or to enjoy sufficient peace of mind to do his best work.

In determining fees, a CPA may assess the degree of responsibility assumed by undertaking an engagement as well as the time, manpower and skills required to perform the service in conformity with the standards of the profession. He may also take into account the value of the service to the client, the customary charges of professional colleagues and other considerations. No single factor is necessarily controlling.

Clients have a right to know in advance what rates will be charged and approximately how much an engagement will cost. However, when professional judgments are involved, it is usually not possible to set a fair charge until an engagement has been completed. For this reason CPAs should state their fees for proposed engagements in the form of estimates which may be subject to change as the work progresses.

Other practices prohibited by the Rules of Conduct include using any firm designation or description which might be misleading, or practicing as a professional corporation or association which fails to comply with provisions established by Council to protect the public interest.

A member, while practicing public accounting, may not engage in a business or occupation which is incompatible therewith. While certain occupations are clearly incompatible with the practice of public accounting, the profession has never attempted to list them, for in most cases the individual circumstances indicate whether there is a problem. For example, there would be a problem of conflict of interest if a practicing CPA were to serve on a tax assessment board since he would be open to accusations of favoring his clients whether this was done or not. Moreover, they might, under some circumstances, create a conflict of interest in the CPA's independence relationship with his clients.

Paying a commission to outsiders is prohibited in order to eliminate the temptation to compensate anyone for referring a client. Receipt of a commission is proscribed since practitioners should look to the client,

and not to others, for compensation for services rendered. The practice of paying a fee to a referring CPA irrespective of any service performed or responsibility assumed by him is proscribed because there is no justification for a CPA to share in a fee for accounting services where his sole contribution was to make a referral.

Over the years the vast majority of CPAs have endeavored to earn and maintain a reputation for competence, integrity and objectivity. The success of these efforts has been largely responsible for the wide public acceptance of accounting as an honorable profession. This acceptance is a valuable asset which should never be taken for granted. Every CPA should constantly strive to see that it continues to be deserved.

# Rules of Conduct

of the Code of  
Professional Ethics  
as amended January 6, 1983

*The Rules of Conduct have been adopted by the membership and the AICPA Bylaws, section 7.4, provide that members who violate the Rules of Conduct are subject to discipline.*

*The Rules of Conduct as set forth herein are further amplified by rulings and interpretations contained in AICPA Professional Standards, vol. 2.*



# Rules of Conduct

as amended January 6, 1983

## Definitions

The following definitions of terminology are applicable wherever such terminology is used in the rules and interpretations.

**Client.** The person(s) or entity which retains a member or his firm, engaged in the practice of public accounting, for the performance of professional services.

**Council.** The Council of the American Institute of Certified Public Accountants.

**Enterprise.** Any person(s) or entity, whether organized for profit or not, for which a CPA provides services.

**Financial statements.** Statements and footnotes related thereto that purport to show financial position which relates to a point in time or changes in financial position which relate to a period of time, and statements which use a cash or other incomplete basis of accounting. Balance sheets, statements of income, statements of retained earnings, statements of changes in financial position, and statements of changes in owners' equity are financial statements.

Incidental financial data included in management advisory services reports to support recommendations to a client and tax returns and supporting schedules do not, for this purpose, constitute financial statements; and the statement, affidavit, or signature of preparers required on tax returns neither constitutes an opinion on financial statements nor requires a disclaimer of such opinion.

**Firm.** A proprietorship, partnership, or professional corporation or association engaged in the practice of public accounting, including individual partners or shareholders thereof.

**Institute.** The American Institute of Certified Public Accountants.

**Interpretations of rules of conduct.** Pronouncements issued by the division of professional ethics to provide guidelines concerning the scope and application of the rules of conduct.

**Member.** A member, associate member, or international associate of the American Institute of Certified Public Accountants.

**Practice of public accounting.** Holding out to be a CPA or public accountant and at the same time performing for a client one or more

types of services rendered by public accountants. The term shall not be limited by a more restrictive definition which might be found in the accountancy law under which a member practices.

**Professional services.** One or more types of services performed in the practice of public accounting.

## Applicability of Rules

The Institute's code of professional ethics derives its authority from the bylaws of the Institute which provide that the trial board may, after a hearing, admonish, suspend, or expel a member who is found guilty of infringing any of the bylaws or any provisions of the rules of conduct.\*

The rules of conduct which follow apply to all services performed in the practice of public accounting including tax and management advisory services except (a) where the wording of the rule indicates otherwise and (b) that a member who is practicing outside the United States will not be subject to discipline for departing from any of the rules stated herein so long as his conduct is in accord with the rules of the organized accounting profession in the country in which he is practicing. However, where a member's name is associated with financial statements in such a manner as to imply that he is acting as an independent public accountant and under circumstances that would entitle the reader to assume that United States practices were followed, he must comply with the requirements of rules 202 and 203.

A member may be held responsible for compliance with the rules of conduct by all persons associated with him in the practice of public accounting who are either under his supervision or are his partners or shareholders in the practice.

A member engaged in the practice of public accounting must observe all the rules of conduct. A member not engaged in the practice of public accounting must observe only rules 102 and 501 since all other rules of conduct relate solely to the practice of public accounting.

A member shall not permit others to carry out on his behalf, either with or without compensation, acts which, if carried out by the member, would place him in violation of the rules of conduct.

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\* Bylaws section 7.4.

# Rules

## Rule 101—Independence

A member or a firm of which he is a partner or shareholder shall not express an opinion on financial statements of an enterprise unless he and his firm are independent with respect to such enterprise. Independence will be considered to be impaired if, for example:

- A. During the period of his professional engagement, or at the time of expressing his opinion, he or his firm
  - 1. a. Had or was committed to acquire any direct or material indirect financial interest in the enterprise; or
  - b. Was a trustee of any trust or executor or administrator of any estate if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the enterprise; or
  - 2. Had any joint closely held business investment with the enterprise or any officer, director, or principal stockholder thereof which was material in relation to his or his firm's net worth; or
  - 3. Had any loan to or from the enterprise or any officer, director, or principal stockholder thereof. This latter proscription does not apply to the following loans from a financial institution when made under normal lending procedures, terms, and requirements:
    - a. Loans obtained by a member or his firm which are not material in relation to the net worth of such borrower.
    - b. Home mortgages.
    - c. Other secured loans, except loans guaranteed by a member's firm which are otherwise unsecured.
- B. During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion, he or his firm
  - 1. Was connected with the enterprise as a promoter, underwriter, or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee; or
  - 2. Was a trustee for any pension or profit-sharing trust of the enterprise.

The above examples are not intended to be all-inclusive.

## Rule 102—Integrity and Objectivity

A member shall not knowingly misrepresent facts and when engaged in the practice of public accounting, including the rendering of tax and

management advisory services, shall not subordinate his judgment to others. In tax practice, a member may resolve doubt in favor of his client as long as there is reasonable support for his position.

### **Rule 201—General Standards**

A member shall comply with the following general standards as interpreted by bodies designated by Council\* and must justify any departures therefrom.

- A. *Professional competence.* A member shall undertake only those engagements which he or his firm can reasonably expect to complete with professional competence.
- B. *Due professional care.* A member shall exercise due professional care in the performance of an engagement.
- C. *Planning and supervision.* A member shall adequately plan and supervise an engagement.
- D. *Sufficient relevant data.* A member shall obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to an engagement.
- E. *Forecasts.* A member shall not permit his name to be used in conjunction with any forecast of future transactions in a manner which may lead to the belief that the member vouches for the achievability of the forecast.

### **Rule 202—Auditing Standards**

A member shall not permit his name to be associated with financial statements in such a manner as to imply that he is acting as an independent public accountant unless he has complied with the applicable generally accepted auditing standards\*\* promulgated by the Institute. Statements on auditing standards issued by the Institute's auditing standards executive committee are, for purposes of this rule, considered to be interpretations of the generally accepted auditing standards, and departures from such statements must be justified by those who do not follow them.

### **Rule 203—Accounting Principles**

A member shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such statements contain any departure from an accounting principle

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\* See Appendix D, page 51.

\*\* Ten generally accepted auditing standards are listed in Appendix A, page 47.

promulgated by the body designated by Council\* to establish such principles which has a material effect on the statements taken as a whole, unless the member can demonstrate that due to unusual circumstances the financial statements would otherwise have been misleading. In such cases his report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle would result in a misleading statement.

### **Rule 204—Other Technical Standards**

A member shall comply with other technical standards promulgated by bodies designated by Council to establish such standards, and departures therefrom must be justified by those who do not follow them.

### **Rule 301—Confidential Client Information**

A member shall not disclose any confidential information obtained in the course of a professional engagement except with the consent of the client.

This rule shall not be construed (a) to relieve a member of his obligation under rules 202 and 203, (b) to affect in any way his compliance with a validly issued subpoena or summons enforceable by order of a court, (c) to prohibit review of a member's professional practices as a part of voluntary quality review under Institute authorization, or (d) to preclude a member from responding to any inquiry made by the ethics division or trial board of the Institute, by a duly constituted investigative or disciplinary body of a state CPA society, or under state statutes.

Members of the ethics division and trial board of the Institute and professional practice reviewers under Institute authorization shall not disclose any confidential client information which comes to their attention from members in disciplinary proceedings or otherwise in carrying out their official responsibilities. However, this prohibition shall not restrict the exchange of information with an aforementioned duly constituted investigative or disciplinary body.

### **Rule 302—Contingent Fees**

Professional services shall not be offered or rendered under an arrangement whereby no fee will be charged unless a specified finding or result is attained, or where the fee is otherwise contingent upon the findings or results of such services. However, a member's fees may vary depending, for example, on the complexity of the service rendered.

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\* See Appendix B, page 48.

Fees are not regarded as being contingent if fixed by courts or other public authorities or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.

#### **Rule 401—Encroachment**

Repealed effective March 31, 1979.

#### **Rule 501—Acts Discreditable**

A member shall not commit an act discreditable to the profession.

#### **Rule 502—Advertising and Other Forms of Solicitation**

A member shall not seek to obtain clients by advertising or other forms of solicitation in a manner that is false, misleading, or deceptive. Solicitation by the use of coercion, overreaching, or harassing conduct is prohibited. (*As amended January 6, 1983.*)

#### **Rule 503—Commissions**

A member shall not pay a commission to obtain a client, nor shall he accept a commission for a referral to a client of products or services of others. This rule shall not prohibit payments for the purchase of an accounting practice or retirement payments to individuals formerly engaged in the practice of public accounting or payments to their heirs or estates.

#### **Rule 504—Incompatible Occupations**

A member who is engaged in the practice of public accounting shall not concurrently engage in any business or occupation which would create a conflict of interest in rendering professional services.

#### **Rule 505—Form of Practice and Name**

A member may practice public accounting, whether as an owner or employee, only in the form of a proprietorship, a partnership, or a professional corporation whose characteristics conform to resolutions of Council. (See Appendix C, page 49.)

A member shall not practice under a firm name which includes any fictitious name, indicates specialization, or is misleading as to the type of organization (proprietorship, partnership, or corporation). However, names of one or more past partners or shareholders may be included in the firm name of a successor partnership or corporation. Also, a partner surviving the death or withdrawal of all other partners may

continue to practice under the partnership name for up to two years after becoming a sole practitioner.

A firm may not designate itself as "Members of the American Institute of Certified Public Accountants" unless all of its CPA partners or shareholders are members of the Institute.

## **Appendix A**

### **Generally Accepted Auditing Standards**

*as adopted by the membership in 1948 and 1949*

#### **General Standards**

1. The examination is to be performed by a person or persons having adequate technical training and proficiency as an auditor.
2. In all matters relating to the assignment, an independence in mental attitude is to be maintained by the auditor or auditors.
3. Due professional care is to be exercised in the performance of the examination and the preparation of the report.

#### **Standards of Field Work**

1. The work is to be adequately planned and assistants, if any, are to be properly supervised.
2. There is to be a proper study and evaluation of the existing internal control as a basis for reliance thereon and for the determination of the resultant extent of the tests to which auditing procedures are to be restricted.
3. Sufficient competent evidential matter is to be obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under examination.

#### **Standards of Reporting**

1. The report shall state whether the financial statements are presented in accordance with generally accepted principles of accounting.
2. The report shall state whether such principles have been consistently observed in the current period in relation to the preceding period.
3. Informative disclosures in the financial statements are to be regarded as reasonably adequate unless otherwise stated in the report.
4. The report shall either contain an expression of opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be expressed. When an overall opinion cannot be expressed, the reasons therefor should be stated. In all

cases where an auditor's name is associated with financial statements, the report should contain a clear-cut indication of the character of the auditor's examination, if any, and the degree of responsibility he is taking.

## **Appendix B**

### **Council Resolutions Designating Bodies to Promulgate Technical Standards**

*The following resolution of Council was approved at the spring meeting of Council on May 7, 1973:*

WHEREAS in 1959 the Council designated the accounting principles board to establish accounting principles, and

WHEREAS the Council is advised that the Financial Accounting Standards Board has become operational, it is

RESOLVED, that as of the date hereof the Financial Accounting Standards Board, in respect of statements of financial accounting standards finally adopted by such board in accordance with its rules of procedure and the bylaws of the Financial Accounting Foundation, be, and hereby is, designated by this Council as the body to establish accounting principles pursuant to rule 203 of the rules of conduct of the American Institute of Certified Public Accountants; provided, however, any accounting research bulletins, or opinions of the accounting principles board presently issued or approved for exposure by the accounting principles board prior to April 1, 1973, and finally adopted by such board on or before June 30, 1973, shall constitute statements of accounting principles promulgated by a body designated by Council as contemplated in rule 203 of the rules of conduct unless and until such time as they are expressly superseded by action of the FASB.

*The following resolution of Council was adopted October 21, 1978:*

WHEREAS: The membership of the Institute has adopted rule 204 of the rules of conduct, which authorizes the Council to designate bodies to promulgate technical standards with which members must comply, and therefore it is

RESOLVED: That the AICPA Management Advisory Services Executive Committee is hereby designated to promulgate technical standards under rule 204 with respect to the offering of management advisory services provided, however, that such standards do not deal with the



broad question of what, if any, services should be proscribed, and provided further that any such statements are subject to review by affected senior technical committees of the Institute prior to issuance.

*The following resolution of Council was adopted May 7, 1979:*

**WHEREAS:** The membership of the Institute has adopted rule 204 of the rules of conduct, which authorizes the Council to designate bodies to promulgate technical standards with which members must comply, and therefore it is

**RESOLVED:** That the AICPA Accounting and Review Services Committee is hereby designated to promulgate technical standards under rule 204 with respect to unaudited financial statements or other unaudited financial information of an entity that is not required to file financial statements with a regulatory agency in connection with the sale or trading of its securities in a public market provided, however, that any such statements are subject to review by affected senior technical committees of the Institute prior to issuance.

*The following resolution of Council was adopted May 7, 1979:*

**WHEREAS:** The membership of the Institute has adopted rule 204 of the rules of conduct, which authorizes the Council to designate bodies to promulgate technical standards with which members must comply, and therefore it is

**RESOLVED:** That the auditing standards board shall establish under statements on auditing standards the responsibilities of members with respect to standards of disclosure of financial information outside financial statements in published financial reports containing financial statements. For this purpose, the council designates the Financial Accounting Standards Board as the body, under rule 204 of the rules of conduct, to establish standards for the disclosure of such information.

## **Appendix C**

### **Council Resolution Permitting Professional Corporations or Associations**

*The following resolution of Council was approved at the meeting of Council on October 13, 1979:*

**RESOLVED,** that the characteristics of a professional corporation as referred to in rule 505 of the code of professional ethics are as follows:

1. *Name.* The name under which the professional corporation or association renders professional services shall contain only the names of one or more of the present or former shareholders or of partners who were associated with a predecessor accounting firm. Impersonal or fictitious names, as well as names which indicate a specialty, are prohibited.
2. *Purpose.* The professional corporation or association shall not provide services that are incompatible with the practice of public accounting.
3. *Ownership.* All shareholders of the corporation or association shall be persons engaged in the practice of public accounting as defined by the code of professional ethics. Shareholders shall at all times own their shares in their own right and shall be the beneficial owners of the equity capital ascribed to them.
4. *Transfer of Shares.* Provision shall be made requiring any shareholder who ceases to be eligible to be a shareholder to dispose of all of his shares within a reasonable period to a person qualified to be a shareholder or to the corporation or association.
5. *Directors and Officers.* The principal executive officer shall be a shareholder and a director, and to the extent possible, all other directors and officers shall be certified public accountants. Lay directors and officers shall not exercise any authority whatsoever over professional matters.
6. *Conduct.* The right to practice as a corporation or association shall not change the obligation of its shareholders, directors, officers, and other employees to comply with the standards of professional conduct established by the American Institute of Certified Public Accountants.
7. *Liability.* The stockholders of professional corporations or associations shall be jointly and severally liable for the acts of a corporation or association, or its employees—except where professional liability insurance is carried, or capitalization is maintained, in amounts deemed sufficient to offer adequate protection to the public. Liability shall not be limited by the formation of subsidiary or affiliated corporations or associations each with its own limited and unrelated liability.

## Appendix D

### **Council Resolution Designating Bodies to Interpret General Standards Under Rule 201**

*The following resolution of Council was adopted May 12, 1981:*

WHEREAS: The membership of the Institute has adopted rule 201 of the rules of conduct which authorizes the Council to designate bodies to interpret the general standards contained therein, it is hereby

RESOLVED: That the following are hereby designated by the Council to interpret the application of the general standards contained in rule 201 to their respective areas of responsibility:

- Accounting and review services committee
- Auditing standards board
- Management advisory services executive committee

AND FURTHER RESOLVED: That the authority of the aforementioned committees to interpret the application of the general standards contained in rule 201 shall not affect the responsibility of the professional ethics division under section 3.6.2.2 of the bylaws to interpret the code of professional ethics.

AND FURTHER RESOLVED: That any Institute committee or board now or in the future authorized by the Council to issue enforceable standards under rule 204 or to interpret the general standards under rule 201 must observe an exposure process seeking comment from other affected committees and boards, as well as the general membership, before adopting standards under rule 204 or interpreting general standards under rule 201.

# **Bylaws**

**and Implementing  
Resolutions of Council  
as amended May 10, 1983**

# **Bylaws**

**as amended May 10, 1983**

## **Definitions**

As used in these bylaws, implementing resolutions of Council thereunder, or the code of professional ethics, masculine terms shall be understood to include the feminine; "state" shall be understood to include the District of Columbia, Puerto Rico, and the territories, or territorial possessions of the United States of America; "partner" shall be understood to include partner equivalents, and any shareholders, or other equity owners of a professional corporation or association; "partnership" shall be understood to include professional corporations and associations; and "committee" shall be understood to include any board (except the AICPA Board of Directors), division, task force, or any subdivision thereof.

## **1 Name and Purpose**

The name of this organization shall be the American Institute of Certified Public Accountants. In keeping with the Institute's certificate of incorporation, its objectives shall be to unite certified public accountants in the United States; to promote and maintain high professional standards of practice; to assist in the maintenance of standards for entry to the profession; to promote the interests of CPAs; to develop and improve accounting education; and to encourage cordial relations between CPAs and professional accountants in other countries.

## **2 Admission to Membership and Association**

### **2.1 Members**

Members of the Institute shall be

**2.1.1** Members of the Institute at the effective date of these bylaws and

**2.1.2** Persons who shall qualify for admission as provided in section 2.2 of this article and who shall be admitted under procedures adopted by the board of directors.

## **2.2 Requirements for Admission to Membership**

The following persons may qualify for admission as members of the Institute:

**2.2.1** Those who are in possession of a valid and unrevoked certified public accountant certificate issued by a legally constituted state authority and

**2.2.2** Who shall have passed an examination in accounting and other related subjects satisfactory to the board of directors.

## **2.3 Certificate of Membership**

Upon admission each member shall be entitled to a certificate setting forth that he is a member of the Institute, but no certificate shall be issued until receipt of dues for the current year. Certificates of membership shall be returned upon the demand of the secretary of the Institute in the event of suspension or termination of membership.

## **2.4 Right of Members to Describe Themselves as Such**

A member of the Institute shall be entitled to use the designation "Member of the American Institute of Certified Public Accountants." A firm all of whose CPA partners are members shall be entitled to use the designation "Members of the American Institute of Certified Public Accountants."

## **2.5 International Associates**

International associates shall include those who were international associates on the effective date of these bylaws. Thereafter, citizens of other countries who shall satisfy such requirements as the Council may prescribe may be admitted as international associates. The Council shall adopt rules governing such association and indications thereof.

(See implementing resolution, page 23.)

# **3 Organization and Procedure**

## **3.1 General**

The organization of the Institute shall include the members, the Council, the board of directors, officers, and committees.

The board of directors may from time to time organize the committees and staff of the Institute into divisions and, subject to section 3.6, may adopt rules of procedures and operating policies for such divisions.

## **3.2 Membership**

The rights and powers of the membership of the Institute shall be as defined herein.

### **3.2.1 Attendance at Meetings**

Every member and international associate of the Institute shall be entitled to attend all meetings of the Institute.

### **3.2.2 Voting Rights**

Every member, but no international associate, shall be entitled to vote in person, when in attendance, upon all questions brought before duly called meetings of the Institute, and by mail ballot for the election of Council members pursuant to sections 6.1 through 6.1.6, on proposed amendments to these bylaws or to the code of professional ethics as provided in article 8, and upon proposed resolutions of the membership as provided in section 5.1.4.

### **3.2.3 Residence for Voting Purposes**

The state from which a member may vote shall be that indicated by his mailing address as carried in the official records of the Institute, and may be either the state in which he resides or that in which his office is located.

### **3.2.4 Resolutions of the Membership**

As provided in section 5.1.4, the members by mail ballot may enact resolutions of the membership, not inconsistent with these bylaws, which shall be binding upon the membership, the Council, the board of directors, officers, committees, and staff.

### **3.2.5 Certain Positions to Be Held Only by Members**

Only members of the Institute, as defined in section 2.1, may serve as officers of the Institute or as members of the Council, the board of directors, or any committee or board, except the board of examiners, designated as "senior" by the Council (see section 3.6.1), or as "permanent" by these bylaws (see section 3.6.2); provided, however, that the secretary, who need not be a member of the Institute, and three representatives of the public, none of whom shall be members of the Institute, shall be members of the board of directors.

## **3.3 Council**

The governing body of the Institute shall be the Council.

### **3.3.1 Composition**

The Council shall be composed of

**3.3.1.1** Members of the Institute directly elected by the membership in each state in accordance with sections 6.1.1 through 6.1.6;

**3.3.1.2** Representatives of the recognized state societies of certified public accountants selected in accordance with section 6.2;

**3.3.1.3** Twenty-one members-at-large selected in accordance with section 6.3;

**3.3.1.4** All members of the board of directors of the Institute;

**3.3.1.5** All past presidents of the American Institute of Certified Public Accountants who served prior to December 31, 1973, and are members of the Institute;

**3.3.1.6** All past chairmen of the board of the American Institute of Certified Public Accountants who are members of the Institute.

### **3.3.2 Powers**

The Council may exercise all powers requisite for the purposes of the Institute, not inconsistent with these bylaws or with duly enacted resolutions of the membership, including but not limited to the authority to prescribe the policies and procedures of the Institute and to enact resolutions binding upon the board of directors, the officers, committees, and staff.

### **3.3.3 Reports to Membership**

The actions of the Council shall be reported to the membership at least annually.

## **3.4 Board of Directors**

Between meetings of the Council, the activities of the Institute shall be directed by the board of directors, the composition of which shall be prescribed by the Council.

(See implementing resolution, page 24.)

### **3.4.1 Powers**

The board of directors shall act as the executive committee of Council between meetings of Council, shall control and manage the property, business, and activities of the Institute, and shall take whatever action it deems desirable including the establishment of policies for the conduct of the affairs of the Institute consistent with the provisions of these bylaws, resolutions of the membership, or actions of the Council.



### **3.4.2 Reports to Council**

The actions of the board of directors shall be reported to the Council at least semiannually.

### **3.5 Officers Elected by Council**

The officers of the Institute shall be a chairman of the board of directors, a vice chairman of the board, who shall be the chairman of the board nominee, a president, who shall be a full-time employee of the Institute, three board vice presidents, and a treasurer, all of whom shall be members possessing valid and unrevoked certified public accountant certificates, and a secretary, who shall be a full-time employee of the Institute, but need not be a member of the Institute. The chairman and the vice chairman of the board, the president, the board vice presidents, the treasurer, and the secretary shall have such terms of office, powers, and privileges as the Council may prescribe.

(See implementing resolution, page 24.)

#### **3.5.1 Officers Appointed by the Board of Directors**

The board of directors may appoint staff vice presidents who shall be neither members of the board nor of the Council and who shall perform such duties as may be assigned to them by the president.

### **3.6 Committees**

Except as otherwise provided by these bylaws or the Council (see section 3.6.1), the chairman of the board of directors, or his delegate, may appoint committees and boards with such duties, powers, responsibilities, and procedures as he may prescribe. The chairman of the board, the president, and the secretary shall have the privilege of the floor at meetings of all committees.

(See implementing resolution, page 25.)

#### **3.6.1 Senior Committees**

The Council may designate any committee as a "senior" committee. The appointment by the chairman of the board of directors of members to senior committees shall require the approval of the board of directors. The duties, powers, responsibilities, and procedures of senior committees shall be as the Council may prescribe consistent with the specific provisions of these bylaws.

(See implementing resolution, page 25.)

### **3.6.2 Permanent Committees, Boards, and Divisions**

The following shall be permanent committees, boards, or divisions of the Institute: the nominations committee (see section 3.6.2.1); the professional ethics division (see section 3.6.2.2); the trial board (see section 3.6.2.3); and the board of examiners (see section 3.6.2.4).

(See implementing resolution, page 25.)

#### **3.6.2.1 Nominations Committee**

There shall be a nominations committee composed of eleven members of the Institute, elected by the Council in such manner as the Council shall prescribe. It shall be the responsibility of the committee to make nominations for the offices of chairman of the board of directors, vice chairman of the board of directors, board vice presidents, treasurer, the elected members of the board of directors, the national review board, and the Council, as elsewhere provided in these bylaws, and to apportion among the states directly elected Council seats pursuant to section 6.1.2.

(See implementing resolution, page 26.)

#### **3.6.2.2 Professional Ethics Division**

The executive committee of the professional ethics division shall serve as the ethics committee of the Institute, and there shall be such other committees within the division as the board of directors shall authorize. The executive committee shall (1) subject to amendment, suspension, or revocation by the board of directors, adopt rules governing procedures consistent with these bylaws or actions of Council to investigate potential disciplinary matters involving members, (2) arrange for presentation of a case before the trial board where the committee finds prima facie evidence of infraction of these bylaws or of the code of professional ethics, (3) interpret the code of professional ethics, (4) propose amendments thereto, and (5) perform such related services as the Council may prescribe.

(See implementing resolution, page 26.)

#### **3.6.2.3 Trial Board**

There shall be a trial board consisting of members possessing a valid and unrevoked certified public accountant certificate to adjudicate disciplinary charges against members of the Institute pursuant to section 7.4. Members of the trial board shall be elected by the Council for such terms as the Council may prescribe.

The trial board is empowered to adopt rules, consistent with these bylaws or actions of the Council, governing procedure in cases heard

by any hearing panel, and in connection with any application for review of a decision of a hearing panel.

Decisions of any hearing panel shall be subject to review only by the trial board.

(See implementing resolution, page 27.)

#### **3.6.2.4 Board of Examiners**

There shall be a board of examiners, consisting of persons who have passed the Uniform CPA Examination and who possess valid and unrevoked certified public accountant certificates, appointed by the chairman of the board of directors subject to the approval of the board of directors. It shall supervise the preparation of a uniform examination which may be adopted by the legally constituted authorities of the states in examining candidates for the certified public accountant certificate and the conduct of the grading service offered by the Institute. The board of examiners shall formulate the necessary rules and regulations for the conduct of its work, but all such rules and regulations may be amended, suspended, or revoked by the board of directors. The board of examiners may delegate to members of the Institute's staff or other duly qualified persons the preparation of examination questions and the operation of the grading service conducted by the Institute.

## **4 Financial Management and Controls**

The Council shall have authority to prescribe such procedures as it deems appropriate to assure adequate budgetary and financial controls. Budgets shall be prepared and presented as the Council shall prescribe.

(See implementing resolution, page 29.)

### **4.1 Audit**

The Council shall, for each fiscal year, appoint a certified public accountant or certified public accountants to express an opinion on the financial statements of the Institute and its affiliated organizations. The financial statements of the Institute and the report of the auditor or auditors for each fiscal year shall be published for the information of the membership.

### **4.2 Committee on Audit**

The chairman of the board shall appoint from among the members of the board of directors, other than the officers, a committee on audit to

make arrangements with the auditor or auditors for their examination and to review the audit report.

#### **4.3 Execution of Instruments on Behalf of the Institute**

All checks, drafts, deeds, mortgages, bonds, contracts, reports, proxies, and other instruments may be executed on behalf of the Institute by such officers or employees as the Council or the board of directors may from time to time designate, either generally or in specific instances.

#### **4.4 Indemnification**

The Institute shall indemnify to the full extent authorized by law for the good faith exercise of judgment in the performance of assigned duties any person made or threatened to be made a party to any action, suit, or proceeding, whether criminal, civil, administrative, or investigative, by reason of the fact that he, his testator, or intestate is or was a member of Council, the board of directors, or any committee, trustee, officer, employee, or agent of the Institute or any affiliated entity or serves or served any other enterprise as a director, trustee, officer, employee, or agent at the request of the Institute.

Without limiting the generality of the foregoing, the Institute may contract for insurance against all or a portion of any liabilities and expenses, if any, resulting from the indemnification of any of the foregoing persons pursuant to this section or otherwise as permitted by law, and may also contract for companion insurance directly insuring any or all of such persons against liabilities and expenses.

#### **4.5 Dues**

The Council shall determine the annual dues which shall be paid by each member and international associate in accordance with such classifications as it deems appropriate, and may require dues of a different amount for each class so created.

Dues shall be payable on or before the first day of each fiscal year of the Institute or in such other manner as the Council shall prescribe. For new members or international associates, dues shall be apportioned to the end of the fiscal year.

No dues shall be paid by members or international associates of the Institute while they are engaged in military service of the United States or its allies during war. Individual members or international associates may be excused from payment of dues for reasonable cause by the treasurer.

#### **4.6 Fiscal Year**

The fiscal year of the Institute shall be as the Council shall prescribe.

(See implementing resolution, page 29.)

### **5 Meetings of the Institute and the Council**

This article shall govern meetings of the Institute and of the Council. The board of directors shall determine the dates of meetings of Council and the matters to be presented for action.

#### **5.1 Meetings of the Institute**

The membership shall meet pursuant to sections 5.1.1 through 5.1.3, conduct its business pursuant to section 5.1.3, and may adopt resolutions pursuant to section 5.1.4. Meetings of the membership shall be known as meetings of the Institute.

##### **5.1.1 Regular Meetings of the Institute**

There shall be a regular meeting of the Institute within three months after the close of the fiscal year, on a date to be fixed by the board of directors. This meeting shall also be known as the annual meeting of the Institute.

##### **5.1.2 Special Meetings of the Institute**

The chairman of the board shall call special meetings of the Institute when so requested by the Council or the board of directors, or upon the written request of at least 5 percent of the membership of the Institute or any thirty members of Council. Special meetings of the Institute shall be held at places designated by the board of directors. No business shall be transacted at a special meeting of the Institute other than that for which the meeting shall have been convened.

##### **5.1.3 Notice of Meetings of the Institute**

Notice of each meeting of the Institute, whether regular or special, shall be mailed to each member of the Institute, at his mailing address as shown on the official records of the Institute, at least thirty days prior to the date of such meeting.

##### **5.1.4 Resolution of the Membership by Mail Ballot**

A majority of the members of the Institute, assembled at any duly called corporate meeting of the Institute at which a quorum is present, may

direct that the chairman of the board submit any question to the entire membership for a vote by mail. Any resolution enacted in such a mail ballot by two-thirds of the members voting shall be declared by the chairman of the board a resolution of the membership and shall be binding, if consistent with these bylaws, upon the Council, the board of directors, committees, officers, and staff. Mail ballots shall be valid and counted only if received within sixty days after the date of the mailing of ballot forms.

## **5.2 Meetings of Council**

Meetings of the Council shall be governed by sections 5.2.1 through 5.2.5, section 5.3, and section 6.7.

### **5.2.1 Regular Meetings of Council**

Regular meetings of the Council shall be held prior to the annual meeting of the Institute and on such other dates as the Council or the board of directors may designate.

### **5.2.2 Special Meetings of Council**

The chairman of the board shall call special meetings of the Council when requested to do so by the board of directors or when requested in writing by at least thirty members of the Council. Special meetings of the Council shall be held at places designated by the board of directors.

### **5.2.3 Mail Ballot in Lieu of Special Meeting of Council**

In lieu of a special meeting of the Council, the chairman of the board, with the approval of the board of directors, may submit any question to the Council for a vote by mail, and any action therein approved in writing by not less than two-thirds of the whole membership of the Council shall be declared by the chairman of the board an act of the Council and shall be recorded in the minutes of the Council.

### **5.2.4 Notice**

Notice of each meeting of the Council shall be sent to each member of the Council, at his mailing address as shown in the official records of the Institute, at least twenty-one days before such meeting. Such notice, as far as practicable, shall contain a statement of the business to be transacted.

### **5.2.5 Minutes**

A copy of the minutes of each meeting of the Council shall be forwarded to each member of the Council within forty-five days after such meeting.

### **5.3 General Provisions Governing Meetings**

The following general provisions shall govern quorum and parliamentary procedure.

#### **5.3.1 Meetings—Quorum**

Five hundred members of the Institute shall constitute a quorum for the transaction of any business duly presented at any meeting of the Institute. Thirty members of Council shall constitute a quorum of the Council at any duly called meeting of the Council. Eleven members of the board of directors shall constitute a quorum of the board.

#### **5.3.2 Meetings—Rules of Parliamentary Procedure Applicable**

The rules of parliamentary procedure contained in **Robert's Rules of Order Revised** shall govern all meetings of the Institute and of the Council.

## **6 Election of Council, Board of Directors, and Officers of the Institute**

Except for ex officio members of Council (see sections 3.3.1.4 through 3.3.1.6), the election of members of the Council, the board of directors, and officers of the Institute shall be in accordance with the provisions of this article.

### **6.1 Members of Council Directly Elected by Members of the Institute**

Members of Council directly elected by the membership in the respective states (see section 3.3.1.1) shall be elected in accordance with sections 6.1.1 through 6.1.6 as supplemented by Council resolution.

#### **6.1.1 At Least One Member of Council Directly Elected by Membership of Each State**

There shall be at least one member of Council directly elected by the members of the Institute in each state having one or more persons enrolled upon the membership lists of the Institute.

#### **6.1.2 Number and Allocation of Directly Elected Council Seats Among the States**

The total number of directly elected members of Council, in addition to those provided for by section 6.1.1, shall be eighty-five except as

modified by section 6.1.2.1. The number of seats, excluding those extended by section 6.1.2.1, shall be equitably allocated among the states in direct proportion to the number of Institute members enrolled from each state.

#### **6.1.2.1 Unexpired Terms Unaffected by Reduced Allocation**

No member of Council directly elected by the membership in any state shall lose his seat for the term he then serves should the allocation of that state be diminished by virtue of section 6.1.2; but, no state's allocation of directly elected Council seats shall be extended by this section beyond the natural expiration of a seat's full term or its vacation by the member filling it, whichever first occurs.

#### **6.1.2.2 Allocation to Be Made by Nominations Committee**

The nominations committee shall make the allocation provided in section 6.1.2. It shall be made at five-year intervals, at least nine months prior to annual meetings to be held each calendar year which ends in one and in six, and shall govern the five annual elections immediately following. It shall be based upon the membership figures and addresses carried on the books of the Institute the last day of the fiscal year immediately preceding the date of such determination.

If a state gains an additional seat from such allocation, the state society may request the nominations committee to authorize election for an initial term of less than three years in order to promote orderly rotation of Council members from that state. Upon receipt of such request, the nominations committee may authorize such shortened term. Following the expiration of such shortened term, subsequent terms for the seat shall be for three years, as provided in section 6.1.3.

In the event that a state has three or more directly elected members whose terms are not evenly staggered over a three-year cycle, the state society may request the nominations committee, for the election following the year these bylaws are adopted and thereafter in calendar years ending in one and in six, to approve the election of a nominee to fill a vacancy for a term of less than three years in order to effect a more orderly rotation of the Council members from that state. The nominations committee may authorize such shortened term. Subsequent terms for such a seat shall be three years, as provided in section 6.1.3.

#### **6.1.3 Term of Office**

Except as specified by this section 6.1.3, the term of office of a directly elected member of the Council shall commence when his election is



announced by the chairman of the board of directors at the meeting of the Council immediately preceding the annual meeting of the Institute, as prescribed by section 6.7, and shall run until the announcement of the election of new directly elected members of the Council at the meeting of the Council immediately preceding the annual meeting of the Institute three years after his election. If any such member of the Council shall not serve his full term, the vacancy so created may be filled pursuant to section 6.6. The term of office of any member directly elected by the members in his state to fill such vacancy shall be the remainder of the three-year term with respect to which the vacancy occurred.

No member having served for two consecutive full terms as a directly elected member of the Council shall be eligible to serve another such term until at least one year after the completion of his second consecutive full term.

#### **6.1.4 Number of Council Seats to Be Filled by Election**

The number of Council seats to be filled in a state's quota of directly elected members of the Council for any given year shall be the number of its allocation of directly elected Council seats less the number of members of the Council from that state filling such seats for terms running through that year.

#### **6.1.5 Nominations**

At least eight months prior to the annual meeting of the Institute, the nominations committee shall request, from the recognized society of certified public accountants in each state for which any vacancies (see section 6.1.4) will arise in the coming year, the names of suggested candidates from the state represented by such society to fill each such vacancy. The committee shall give due consideration to the names so submitted, but shall not be required to select its nominees from among such names. In the absence of a satisfactory response from any such state society, the nominations committee shall select the nominees from such state.

The nominations committee shall make its nominations for directly elected members of the Council at least six months prior to the annual meeting of the Institute. Notice of such nominations shall be published to the membership by the secretary at least five months prior to the annual meeting of the Institute. Any twenty members of the Institute from any given state for which a vacancy shall arise may submit to the secretary independent nominations for directly elected members of the Council from that state provided that such nominations be filed with the secretary at least four months prior to the annual meeting of the Institute.

### **6.1.6 Election**

The nominees of the nominations committee for directly elected seats on Council shall be declared elected by the secretary if no independent nominations are filed for such seats as required by section 6.1.5.

The secretary shall mail to all members of the Institute in each state in which there is a contest for a directly elected seat on Council, at least ninety days prior to the annual meeting of the Institute, mail ballots containing the names and relevant background information of nominees from that state nominated by the nominations committee and the names and relevant background information of nominees independently nominated. Each ballot shall contain an announcement that votes will be counted only if received by the secretary at least forty-five days before the annual meeting of the Institute. Election to contested seats on Council shall be determined by a majority of the votes received from each jurisdiction by that date. Mail ballots shall be counted by the secretary, who shall certify the results for publication to the membership. Newly elected members shall be notified promptly and advised to attend the initial meeting of Council prior to the annual meeting of the Institute. They shall take office as provided in section 6.7.

(See implementing resolution, page 29.)

### **6.2 Selection of Members of Council to Represent State Societies**

Each recognized state society of certified public accountants shall designate, in a manner it deems appropriate, an Institute member to represent it on the Council. The term of each member of the Council so designated shall commence upon notification of the secretary by the society designating him at the meeting of Council immediately preceding the annual meeting of the Institute and shall run for one year or until the designation of his successor, provided that no such member of the Council shall represent a state society for more than six consecutive years.

### **6.3 Election of Members-at-Large of Council, Board of Directors, Chairman of the Board, Vice Chairman of the Board, Board Vice Presidents, and Treasurer**

Seven Institute members, without regard to the states in which they reside, shall be elected annually by the Council as members-at-large of the Council, at its meeting immediately preceding the annual meeting of the Institute, and immediately prior to the installation of the members of the Council newly elected under section 6.1, for a term of three years or until the election of their successors. At the same meeting, but

subsequent to the installation of such newly elected members of the Council, including members-at-large, the Council shall elect the chairman of the board, the vice chairman of the board, the board vice presidents and the treasurer, and three Institute members of the board of directors. Such members of the board of directors shall serve for a term of three years or until election of their successors. The Council shall also elect one representative of the public, who is not a member of the Institute, to the board of directors for a term of three years, or until election of a successor. Nominations for all such positions shall be made by the nominations committee at least six months prior to the annual meeting of the Institute, and notice thereof shall be published to the membership of the Institute at least five months prior to such annual meeting. Independent nominations may be made by any twenty members of the Council if filed with the secretary at least four months prior to the annual meeting of the Institute. No nominations from the floor will be recognized. A majority of votes shall elect. Nominees may be invited to the meeting at which the election is to be held, and those elected shall take office as prescribed in section 6.7.

No member having served for two consecutive full terms as a member-at-large of the Council shall be eligible to serve another such term until at least one year after the completion of his second consecutive full term.

#### **6.3.1 Re-election to Board of Directors**

No elected member of the board of directors who has served a full three-year term shall be eligible for re-election to such a term until the meeting of the Council one year after the completion of his full three-year term provided, however, that a public member may be elected to serve a second three-year term.

#### **6.4 Election of the President and the Secretary**

Election of the president and secretary shall be by the Council and shall be conducted as the Council may prescribe.

(See implementing resolution, page 29.)

#### **6.5 Forfeiture of Office for Nonattendance**

Any directly elected member or member-at-large of Council who shall be absent from three consecutive meetings shall forfeit his seat.

#### **6.6 Vacancies**

Vacancies in the membership of Council, or in the board of directors, or in any of the offices of the Institute, occurring between annual meetings of the Institute, may be filled by election of replacements by

the Council, either at a meeting of Council or by mail ballot, under such conditions as the Council may prescribe. If the Council should so replace a directly elected member of the Council, such interim appointment will run only until his seat is filled by direct election of the membership of his state as provided in these bylaws.

Pending action by the Council to fill a vacancy among any of the elected officers of the Institute, the board of directors may appoint a temporary successor to act in the capacity indicated.

(See implementing resolution, page 30.)

### **6.7 Election Meeting of Council**

At the meeting of the Council immediately preceding the annual meeting of the Institute, following the completion of such other business as the Council may transact, the Council shall elect new members-at-large of the Council pursuant to section 6.3. New members-at-large shall then take office, replacing those members-at-large whose terms shall have expired. Then the presiding officer shall announce the installation of members of the Council newly elected under section 6.1, at which time they shall take office, replacing those directly elected members of Council whose terms shall have expired. Election of officers, new members of the board of directors, and others shall then be held, and each officer or member of the board of directors so elected shall replace his predecessor upon such election, provided, however, that the retiring chairman of the board shall continue in office through the end of the annual meeting of the Institute.

## **7 Termination of Membership and Disciplinary Sanctions**

This article shall govern the termination or suspension of membership in the Institute, whether imposed as a matter of discipline or voluntarily sought, and the imposition of any other disciplinary sanction, or administrative reprimand, whether public or private, or imposition of conditions for retention of membership.

### **7.1 Resignation of Membership**

Resignations of members shall be in writing and may be offered at any time. Actions on such resignations and applications for reinstatement of resigned members shall be taken by the board of directors under such provisions as the Council may prescribe. Council may make separate provision for action on resignations of members not in good

standing or against whom disciplinary proceedings or investigations are pending and on applications for reinstatement of persons whose resignation was accepted when in such classification.

(See implementing resolution, page 30.)

## **7.2 Termination of Membership for Nonpayment of Financial Obligation**

The board of directors may, in its discretion, terminate the membership of a member who fails to pay his dues or any other obligation to the Institute within five months after such debt has become due. Any membership so terminated may be reinstated by the board of directors, under such conditions and procedures as the Council may prescribe.

(See implementing resolution, page 30.)

### **7.2.1 Termination of Association of International Associate**

The Council may terminate the affiliation of an international associate in its discretion.

## **7.3 Disciplinary Suspension and Termination of Membership Without Hearing**

Membership in the Institute shall be suspended or terminated without a hearing for disciplinary purposes as provided in sections 7.3.1 and 7.3.2, under such conditions and by such procedure as shall be prescribed by the Council.

(See implementing resolution, page 31.)

### **7.3.1 Criminal Conviction of Member**

Membership in the Institute shall be suspended without a hearing should there be filed with the secretary of the Institute a judgment of conviction imposed upon any member for

**7.3.1.1** A crime punishable by imprisonment for more than one year;

**7.3.1.2** The willful failure to file any income tax return which he, as an individual taxpayer, is required by law to file;

**7.3.1.3** The filing of a false or fraudulent income tax return on his or a client's behalf; or

**7.3.1.4** The willful aiding in the preparation and presentation of a false and fraudulent income tax return of a client; and

shall be terminated in like manner upon the similar filing of a final judgment of conviction; however, the Council shall provide for the consideration and disposition by the trial board, with or without hearing,

of a timely written petition of any member that his membership should not be suspended or terminated pursuant to section 7.3.1.1, herein.

### **7.3.2 Suspension or Revocation of Certificate**

Membership in the Institute shall be suspended without a hearing should a member's certificate as a certified public accountant or license or permit to practice as such or to practice public accounting be suspended as a disciplinary measure by any governmental authority; but, such suspension of membership shall terminate upon reinstatement of the certificate, or such membership in the Institute shall be terminated without hearing should such certificate, license, or permit be revoked, withdrawn, or cancelled as a disciplinary measure by any governmental authority. The Council shall provide for the consideration and disposition by the trial board, with or without hearing, of a timely written petition of any member that his membership should not be suspended or terminated pursuant to this section 7.3.2.

### **7.3.3 Trial Board Disciplining Not Precluded**

Application of the provisions of section 7.3.1 and section 7.3.2 shall not preclude the summoning of the member concerned to appear before a hearing panel of the trial board pursuant to section 7.4.

## **7.4 Disciplining of Member by Trial Board**

Under such conditions and by such procedure as the Council may prescribe, a hearing panel of the trial board, by a two-thirds vote of the members present and voting, may expel a member (except as otherwise provided in section 7.4.3), or by a majority vote of the members present and voting, may suspend a member for a period not to exceed two years not counting any suspension imposed under sections 7.3.1 and 7.3.2, or may impose such lesser sanctions as the Council may prescribe on any member if

**7.4.1** He infringes any of these bylaws or any provision of the code of professional ethics;

**7.4.2** He is declared by a court of competent jurisdiction to have committed any fraud;

**7.4.3** He is held by a hearing panel of the trial board to have been guilty of an act discreditable to the profession, or to have been convicted of a criminal offense which tends to discredit the profession; provided that should a hearing panel of the trial board find by a majority vote that he has been convicted by a criminal court of an offense involving moral turpitude, or any of the offenses enumerated in section 7.3.1, the penalty shall be expulsion;

**7.4.4** He is declared by any competent court to be insane or otherwise incompetent;

**7.4.5** His certificate as a certified public accountant or license or permit to practice as such or to practice public accounting is suspended, revoked, withdrawn, or cancelled as a disciplinary measure by any governmental authority; or

**7.4.6** He fails to cooperate with the professional ethics division in any disciplinary investigation of him or his partner or employee by not making a substantive response to interrogatories or a request for documents from a committee of the professional ethics division within thirty days of their posting by registered or certified mail, postage prepaid, to him at his last-known address shown on the books of the Institute.

With respect to a member residing in a state which has entered into an agreement approved by the Institute's board of directors for the conduct of joint trial board hearings, disciplinary hearings shall be conducted before the appropriate hearing panel.

(See implementing resolution, page 33.)

## **7.5 Reinstatement**

The Council may prescribe the conditions and procedures under which members suspended or terminated under sections 7.3 and 7.4 may be reinstated.

(See implementing resolution, page 36.)

## **7.6 Publication of Disciplinary Action**

Notice of disciplinary action pursuant to section 7.3 or 7.4, together with a statement of the reasons therefor, shall be published in such form and manner as the Council may prescribe.

(See implementing resolution, page 37.)

## **7.7 Disciplinary Sections Not to Be Applied Retroactively**

Sections 7.3 and 7.4 shall not be applied to offenses of wrongful conduct occurring prior to their effective dates, but such offenses shall be subject to discipline under the bylaws of the Institute in effect at the time of their occurrence.

# **8 Amendments**

Amendments to these bylaws and the code of professional ethics shall be accomplished in a manner consistent with this article.

## **8.1 Proposals to Amend the Bylaws**

Proposals to amend the bylaws may be made by any thirty members of the Council, by any two hundred or more members of the Institute in good standing, by the board of directors, or by petition of 5 percent of the membership as of the end of the prior fiscal year.

## **8.2 Proposals to Amend the Code of Professional Ethics**

Proposals to amend the code of professional ethics may be made by any thirty members of the Council, by any two hundred or more members of the Institute in good standing, by the board of directors, by the professional ethics division, or by petition of 5 percent of the membership as of the end of the prior fiscal year.

## **8.3 Submission to Council via Board of Directors**

All such proposals to amend the bylaws or the code of professional ethics, unless made at a meeting of the Council or the board of directors, shall be submitted in writing to the board of directors. The board of directors shall submit all such proposals, accompanied by its recommendation, to the Council for action.

### **8.3.1 Proposals Not Requiring Council Approval**

Following discussion at a meeting of the Council, proposals sponsored by at least 5 percent of the membership shall be submitted to the membership of the Institute for vote by mail ballot pursuant to section 8.4.

## **8.4 Submission to Membership by Mail Ballot**

Amendments proposed under section 8.3.1 and those authorized by the Council under section 8.3 shall be submitted to all of the members of the Institute for a vote by mail ballot on or after ninety days following discussion by the Council, but no later than 180 days following such discussion. If at least two-thirds of those voting approve such proposal, it shall become effective as an amendment to the bylaws or to the code of professional ethics, as applicable. Mail ballots shall be considered valid and counted only if received in the Institute's principal office within sixty days from the date of mailing the ballots to the members.



# Council Resolutions to Implement Bylaws

## Under Section 2.5 International Associates

### Resolved:

That those persons who are not, and have not begun the process of becoming, citizens of the United States of America may qualify for admission as international associates of the Institute if they

- (a) Are of good moral character;
- (b) Have received a baccalaureate, master's, or Ph.D. degree conferred by an accredited college or university in the United States of America or its territories. The applicant must have successfully passed a minimum of 24 semester hours of undergraduate accounting or 15 semester hours of graduate accounting at an institution that is accredited by one of the six regional accrediting agencies, namely, the Middle States Association of Colleges and Secondary Schools, the New England Association of Schools and Colleges, the Northwest Association of Secondary and Higher Schools, the Western Association of Schools and Colleges, the Southern Association of Colleges and Schools, and the North Central Association of Colleges and Schools;
- (c) Have passed the Uniform Certified Public Accountant Examination in accordance with the regulations prescribed by the board of examiners; and
- (d) Are not practicing public accounting in the United States of America as proprietors, partners, principals, officers, or shareholders.

### Further resolved:

That upon admission and receipt of dues for the current year each international associate shall be entitled to a certificate of association stating that he is an international associate of the Institute, provided that the said certificate of associateship shall not be displayed in home or office during the recipient's stay in the United States in a manner that might mislead anyone to believe the recipient to be a CPA of any of the licensing jurisdictions of the United States; and such certificate shall be returned to the secretary upon suspension or termination of the association of an international associate for disciplinary reasons.

### Further resolved:

That international associates shall abide by the AICPA Bylaws and Code of Professional Ethics and that termination of association of an international associate shall be governed by the provisions of article 7

of the Institute bylaws and, in addition, an international associateship shall be considered to be terminated when, having satisfied all the requirements of a licensing jurisdiction and having been issued a CPA certificate, an international associate either becomes eligible for membership in the AICPA, or, after a period of thirty-six months has elapsed from the date of his admission, has not lived outside of the United States for a period of at least one year.

### **Under Section 3.4 Board of Directors**

#### **Resolved:**

That the board of directors shall be composed of

- (a) The chairman and the vice chairman of the board of directors, the board vice presidents elected by the Council, the treasurer, and the immediate past chairman of the board;
- (b) The president and the secretary of the Institute;
- (c) Nine present or former members of the Council elected to the board by the Council pursuant to section 6.3, to serve for three years or until the election of their successors; and
- (d) Three representatives of the public, who are not members of the Institute.

### **Under Section 3.5 Officers**

#### **Resolved:**

##### **Term of Office**

That the chairman and the vice chairman of the board of directors, the board vice presidents, and the treasurer shall each be elected annually by the Council for a term of one year or until the election of his successor. Only the treasurer may succeed himself in the same office after serving a full term of one year. The term of the president and secretary shall be determined by the board of directors.

##### **Chairman of the Board**

That the chairman of the board of directors shall preside at meetings of members of the Institute, the Council, and the board of directors. He shall appoint committees and boards as provided in section 3.6 of the bylaws. He shall act as a spokesman for the Institute and appear on its behalf before other organizations.

##### **Vice Chairman of the Board**

That the vice chairman shall be chairman-nominee of the board of directors and shall preside in the absence of the chairman at meetings of the Institute, the Council, and the board of directors. He shall

familiarize himself with the duties of the office of chairman and shall perform such other related duties as may be assigned to him by the chairman.

### **Board Vice Presidents**

That the duties of the board vice presidents shall be those usually appertaining to the office of vice president. One of the board vice presidents designated by the board of directors shall preside at meetings of the Institute or of the Council in the absence of the chairman and the vice chairman of the board. No two board vice presidents shall be residents of the same state.

### **Treasurer**

That the treasurer shall familiarize himself with financial policies, investment policies, and the accounting procedures, controls, and financial reporting of the Institute, and shall consult with the president and the independent auditors on such matters, on which he shall advise the members of the board of directors and the president. He shall report thereon to the board of directors to the extent that he deems desirable or as the board of directors may direct, and shall perform such other related duties as may be assigned to him by the Council or the board of directors.

### **President**

That the president shall have full responsibility for the execution of the policies and programs of the Institute, act as a spokesman for the Institute, and perform such other services as may be assigned to him by the Council and the board of directors.

### **Secretary**

That the secretary of the Institute shall have the usual duties of a corporate secretary and shall perform such other related duties as may be assigned to him by the president. An assistant secretary to serve in his absence, who need not be a member of the Institute, may be appointed by the board of directors.

## **Under Section 3.6 Committees**

### **Resolved:**

(1) That the following be designated as senior committees and boards:

- Accounting and review services committee
- Accounting standards executive committee
- Auditing standards board
- Board of examiners

- Federal taxation executive committee
- Management advisory services executive committee
- Private companies practice section executive committee
- Continuing professional education executive committee
- Professional ethics executive committee
- SEC practice section executive committee, and further

(2) That the following senior technical committees be authorized to make public statements, without clearance with the Council or the board of directors, on matters related to their area of practice:

- Accounting and review services committee
- Accounting standards executive committee
- Auditing standards board
- Federal taxation executive committee
- Management advisory services executive committee
- Professional ethics executive committee

#### **Under Section 3.6.2.1 Nominations Committee**

##### **Resolved:**

That at the Council meeting preceding the annual meeting the board of directors, after having considered at least twenty-two candidates, shall recommend eleven members for election to the nominations committee for the current year, no more than three of whom shall be members of the Council, and no more than one of such three Council members shall be a member of the board of directors. Other nominations from the floor shall be permitted. Voting shall be by voice vote of the incoming Council, or, if requested by a majority of those present, by written ballot. A majority vote shall elect. The board of directors shall recommend a chairman of the nominations committee for election by the Council.

#### **Under Section 3.6.2.2 Professional Ethics Division**

##### **Resolved:**

That in cases where the professional ethics executive committee concludes that a prima facie violation of the code of professional ethics or bylaws is not of sufficient gravity to warrant further formal action, it may issue an administrative reprimand and may direct the member or members concerned to complete specified continuing professional education courses, provided, however, that there will be no publication of such administrative reprimand in the Institute's principal membership

periodical and the member concerned is notified of his right to reject the reprimand. In the case of such a rejection, the professional ethics executive committee shall determine whether to bring the matter to a hearing panel of the trial board for a hearing.

### **Under Section 3.6.2.3 Trial Board**

#### **Resolved:**

That the powers of the "trial board" set forth in bylaw section 3.6.2.3 shall be exercised by the joint trial board division which shall consist of a system of regional trial boards and a national review board.

Regional trial boards shall be created for each appropriate geographical region. The number and geographical composition of such regions may be changed from time to time by the board of directors of the Institute on recommendation of the joint trial board division as appears appropriate to the efficient management of the business of the joint trial board division. No state society shall be included in a region without its consent.

Each regional trial board shall be composed of one member from each state or territory in the region designated by the CPA society president or as otherwise determined by the society board of directors. Any state not constituting a region by itself and having more than 6,000 members of the AICPA is entitled to one additional member on the regional trial board. A state which constitutes a region by itself is entitled to designate three members to its regional trial board. A regional trial board member must be a member of the AICPA and of a state society and serves for a three-year term. Each regional trial board shall have a chairman who is appointed annually from among the trial board members in the region by the chairman of the AICPA with the consent of its board of directors. No member of the Institute's professional ethics division or an ethics committee of a state CPA society having responsibility for investigating complaints and bringing disciplinary charges, nor a member of a state board of accountancy charged with regulating the profession of public accountancy, or of any other state agency having similar responsibility shall be eligible for appointment to a regional trial board.

The chairman of any regional trial board pursuant to rules to be adopted by the joint trial board division shall appoint two trial board members from his region including a chairman, who may or may not be the chairman of the particular regional trial board, to hear and adjudicate charges against members of the Institute or participating state societies in the region under the provisions of section 7.4 of these bylaws. The remaining three hearing panel members, who shall be members both of the state society and the AICPA, shall be appointed

by the CPA society president or as otherwise determined by the board of directors of the state society of the state in which the respondent resides from among its membership except that if a state has not entered into an agreement of participation in the joint ethics enforcement program, such remaining three panel members would be appointed by the chairman of the joint trial board division. If the participating state society chooses not to appoint the remaining panel members, the chairman of the joint trial board division shall appoint the remaining panel members from among members of the CPA society and the Institute residing in the same region as the respondent.

The national review board shall consist of twelve members of the Institute elected by Council. All persons elected to membership on the national review board shall also be members of a state society, and no two or more members of the national review board shall have their principal place of practice in the same state. No member of the Institute's professional ethics division or an ethics committee of a state CPA society having responsibility for investigating complaints and bringing disciplinary charges nor a member of a state board of accountancy charged with regulating the profession of public accountancy, or of any other state agency having similar responsibility shall be eligible for appointment to the national review board. The chairman of the national review board shall be appointed from the membership of the national review board by the chairman of the AICPA with the approval of its board of directors.

There shall be a joint trial board executive committee which shall be composed of the chairman of each region and six members of the national review board appointed by the chairman of the national review board. The executive committee shall adopt rules of procedure and practice for the division. It shall elect a secretary of the division who need not be a member.

The chairman shall appoint from the members of the national review board a panel of not less than five members including a chairman, who may or may not be the chairman of the national review board, to hear and adjudicate either charges against members when the national review board is tribunal of first instance, or to exercise the reviewing jurisdiction as provided in Council resolution under section 7.4 of these bylaws, which section shall govern as to the appointment of the ad hoc committees as called for therein.

Upon the initial creation of the national review board the terms of members thereof shall be staggered as follows: one-third shall serve a term of one year; a second one-third shall serve a term of two years; and a third one-third shall serve a term of three years. One-third of the membership of the national review board shall be elected annually thereafter. When a state has more than one member on a regional trial

board, the terms shall be similarly staggered. No member of the national review board or of a regional trial board may serve more than two successive full terms.

## **Under Article 4 Financial Management and Controls**

### **Resolved:**

That annual budgets and projections of revenues and expenditures for the succeeding four years shall be prepared by the Institute's staff, reviewed and approved by the board of directors, and presented to Council for approval at its meeting preceding the annual meeting; such budgets shall be in a form indicating the costs of the principal programs and activities of the Institute; material variations from the annual budget shall be reported to the Council at its spring meeting by the board of directors; receipt of such report without rejection shall constitute authority to continue expenditures for purposes indicated in the annual budget, as modified and presented at the spring meeting, until a new budget for the following fiscal year is approved by the Council. However, the board of directors may, between meetings of Council, authorize additional expenditures in total not to exceed 5 percent of budgeted revenues from all sources.

## **Under Section 4.6 Fiscal Year**

### **Resolved:**

That the fiscal year of the Institute shall be the twelve months beginning August 1 and ending July 31.

## **Under Section 6.1.6 Election**

### **Resolved:**

That the withdrawal of a nomination for whatever reason after the balloting has commenced will not be acted upon until the certification of election has been completed. Vacancies then arising will be filled in accordance with section 6.6 of the bylaws, except that in states where the number of nominees exceeds the number of vacancies, the vacancy created by any withdrawal will be filled by that nominee having the highest number of votes after all other vacancies have been filled.

## **Under Section 6.4 Election of the President and the Secretary**

### **Resolved:**

That the board of directors shall recommend to the Council persons to be elected as president and secretary, respectively. Other nominations

shall be permitted from the floor. Voting may be by voice vote or, upon request of a majority of those present, by written ballot. A majority vote shall elect.

## **Under Section 6.6 Vacancies**

### **Resolved:**

That if a vacancy occurs in the membership of Council, or in the board of directors, or in any of the offices of the Institute between annual meetings of the Institute, the board of directors shall recommend replacements for election by Council. Voting on such replacement may be conducted by mail ballot, in which case provision shall be made for write-in votes, or at the next meeting of Council, as may appear most desirable in the circumstances. If the voting takes place at a Council meeting, nominations from the floor shall be permitted; voting may be by voice vote or, at the request of a majority of those present, by written ballot. A majority vote shall elect. In any event, persons elected to fill vacancies in the board of directors, in the Council, or in any of the offices of the Institute shall serve only for the remainder of the unexpired term of the previous incumbent or until a successor is elected.

## **Under Section 7.1 Resignation of Membership**

### **Resolved:**

That the board of directors shall act upon resignation of members, which shall become effective on the date of acceptance, but no action shall be taken on the resignation of a member with respect to whom charges are under investigation by the professional ethics division, or against whom a complaint is pending before the trial board, unless the division or the trial board, as the case may be, recommends that such resignation be accepted. If a person whose resignation was accepted when he was under investigation or the object of a complaint should subsequently apply for reinstatement, the board of directors shall not reinstate such person without the consent of the division or the trial board, as the case may be.

## **Under Section 7.2 Termination of Membership for Nonpayment of Financial Obligation**

### **Resolved:**

That if a person whose membership has terminated for nonpayment of dues or other financial obligation shall apply for reinstatement, the



board of directors, in its discretion, may reinstate him, provided that he shall have paid to the Institute all dues and other obligations owing by him to the Institute at the time his membership was terminated.

**Further resolved:**

That no person shall be considered to have resigned in good standing if at the time of his resignation he was in debt to the Institute for dues or other obligations. A member submitting his resignation after the beginning of the fiscal year, but before expiration of the time limit for payment of dues or other obligations, may attain good standing by paying dues prorated according to the portion of the fiscal year which has elapsed, provided obligations other than dues shall have been paid in full.

A member who has resigned or whose membership has terminated in any manner may not file a new application for admission but may apply for reinstatement under this resolution or applicable provisions of the bylaws.

**Under Section 7.3   Disciplinary Suspension and  
Termination of Membership  
Without Hearing**

**Resolved:**

(1) That the membership of a member who is convicted by a court of any of the criminal offenses enumerated in section 7.3.1 of the bylaws shall become automatically suspended upon the mailing of a notice of such suspension, as provided in paragraph (5) of this resolution. Such notice shall be mailed within a reasonable time after a certified copy of a judgment of conviction of such criminal offense has been filed with the secretary of the Institute.

(2) That the membership of a member who has been convicted by a court of any of the offenses enumerated in section 7.3.1 of the bylaws, and which conviction has become final, shall become automatically terminated upon the mailing of a notice of such termination, as provided in paragraph (5) of this resolution. Such notice shall be mailed within a reasonable time after a certified copy of such conviction and evidence that it has become final has been filed with the secretary of the Institute.

(3) That the membership of a member whose certificate as a certified public accountant, or license or permit to practice as such or to practice public accounting has been suspended as a disciplinary measure by any governmental authority shall, except as provided in paragraph (6) of this resolution, become automatically suspended upon the expiration

of thirty days after the mailing of a notice of such suspension, as provided in paragraph (5) of this resolution. Such notice shall be mailed within a reasonable time after a statement of such governmental authority, showing that such certificate, license, or permit has been suspended and specifying the cause and duration of such suspension, has been filed with the secretary of the Institute. Such automatic suspension shall cease upon the expiration of the period of suspension so specified.

(4) That the membership of a member whose certificate as a certified public accountant, or license or permit to practice as such or to practice public accounting has been revoked, withdrawn, or cancelled as a disciplinary measure by any governmental authority shall, except as provided in paragraph (6) of this resolution, become automatically terminated upon the expiration of thirty days after the mailing of a notice of such termination, as provided in paragraph (5) of this resolution. Such notice shall be mailed within a reasonable time after a statement of such governmental authority showing that such certificate, license, or permit has been revoked, withdrawn, or cancelled and specifying the cause of such revocation, withdrawal, or cancellation has been filed with the secretary of the Institute.

(5) That notices of suspension or termination pursuant to paragraph (1), (2), (3), or (4) of this resolution shall be signed by the secretary of the Institute and mailed by registered or certified mail, postage prepaid, addressed to the member concerned at his last known address according to the records of the Institute.

(6) That the operation of paragraph (1), (2), (3), or (4) of this resolution shall become postponed if, within thirty days after mailing the notice of suspension or termination, the secretary of the Institute receives a request from the member concerned that the pertinent provision shall not become operative. The request shall state briefly the facts and reasons relied upon. All such requests shall be referred to the trial board for action thereon by the trial board or by an ad hoc committee thereof consisting of at least five members appointed by the chairman of the trial board or vice chairman, when acting as chairman. If the request is denied, the suspension or termination, as the case may be, shall become effective upon such denial, and the member concerned shall be so notified in writing by the secretary. No appeal to the trial board shall be allowable with respect to a denial of such a request by the ad hoc committee. If the request is granted, the suspension or termination, as the case may be, shall not become effective. In such event, the secretary shall transmit the matter to the professional ethics division to take whatever action it considers proper in the circumstances. A determination that paragraph (1), (2), (3), or (4) of this resolution

shall not become operative shall be made only when it clearly appears that, because of exceptional or unusual circumstances, it would be inequitable to permit such automatic suspension or termination.

#### **Under Section 7.4    Disciplining of Member by                                  Trial Board**

##### **Resolved:**

That

(1) Any complaint preferred against a member under section 7.4 of the bylaws shall be submitted to the professional ethics division, which in turn may refer the complaint for investigation and recommendation to an ethics committee (or its equivalent) of a state society of certified public accountants which has made an agreement with the Institute of the type authorized in section 7.4 of the bylaws. If, upon consideration of the complaint, investigation and/or recommendation thereon, it appears that a prima facie case is established showing a violation of any applicable bylaws or any provision of the code of professional ethics of the Institute or any state society making an agreement with the Institute referred to above or showing any conduct discreditable to a certified public accountant, the professional ethics division or the ethics committee of such state society shall report the matter to the secretary of the joint trial board division who shall summon the member involved to appear in answer at the next convenient meeting of a panel of the appropriate regional trial board or a panel of the national review board appointed to hear the case under paragraph 3(b) provided, however, that with respect to a case falling within the scope of section 7.3 of the bylaws the division or such state society ethics committee shall have discretion as to when and whether to report the matter to the secretary for such summoning.

(2) (a) If the professional ethics division or state society ethics committee shall dismiss any complaint preferred against a member or shall fail to initiate its investigation within ninety days after such complaint is presented to it in writing, the member preferring the complaint may present the complaint in writing to the national review board, provided, however, that this provision shall not apply to a case falling within the scope of section 7.3.

(b) The chairman of the national review board shall cause such investigation to be made of the matter as he may deem necessary, and shall either dismiss the complaint or refer it to the secretary of the joint trial board division who shall summon the member involved thereby to appear before the panel appointed in paragraph (c) hereof to hear the case.

- (c) Prior to causing the investigation referred to in paragraph (a), the chairman of the national review board shall designate six members of the national review board who shall not be involved in such investigation in order that five of them may be appointed to an independent hearing panel if necessary. He shall report the names of such members to the secretary of the joint trial board division prior to any action under paragraph (a).
- (3) For the purpose of adjudicating charges against persons subject thereto as provided in the foregoing paragraphs of this resolution, the following must take place:
- (a) The secretary of the joint trial board division shall mail to the member concerned, at least thirty days prior to the proposed hearing by the appropriate regional trial panel appointed to hear the case under the rules of procedure of the joint trial board division, written notice of the charges to be adjudicated. Such notice, when mailed by registered or certified mail, postage prepaid, addressed to the respondent concerned at his last known address, according to the records of the Institute, or any participating state society if the case involves a person who is not a member of the AICPA under an agreement contemplated by section 7.4 of the bylaws, shall be deemed properly served.
- (b) Within thirty days of the mailing of the notice set forth in paragraph (a) every respondent must move to exercise any right he may have under the rules of procedure of the joint trial board division to request a trial before a panel of the national review board rather than the regional trial board to which he has been summoned under paragraph (a). Any hearing in the matter shall be conducted according to the rules of procedure of the joint trial board division, which shall provide that such request shall not be granted as a matter of right but shall be considered by an ad hoc committee to be appointed by the chairman of the national review board and composed of not less than three members of the national review board. The ad hoc committee shall decide if the request shall be granted or denied. The ad hoc committee's decision on this question shall be final and subject to no further review. If the request is granted the charges shall be heard by a panel of the national review board constituted as set forth in the resolution under section 3.6.2.3 of the bylaws. In those cases in which such a request is granted and a panel of the national review board makes a decision, there shall be no further appeal of any kind.
- (c) After hearing the evidence presented by the professional ethics division or other complainant and by the respondent, the appropriate trial panel hearing the case, a quorum present, by vote of the members present and voting, may, in a manner consistent with

section 7.4 of the AICPA bylaws, admonish, suspend for a period of not more than two years, or expel the member against whom the complaint is made, provided that in any case in which the appropriate trial panel finds that a member has departed from the profession's ethical standards, it may also direct the member concerned to complete specified continuing professional education courses and to report to the joint trial board upon such completion.

(d) In a case decided by a regional trial board the member concerned may request a review of the decision by a panel of the national review board, provided such a request for review is filed with the secretary of the joint trial board division at the principal office of the Institute within thirty days after the decision of the regional trial board, and that such information as may be required by the rules of the joint trial board division shall be filed with such request. Such a review shall not be a matter of right. Each such request for a review shall be considered by an ad hoc committee to be appointed by the chairman of the national review board, who shall appoint an ad hoc committee of not less than three members of the national review board who did not participate in any prior proceedings in the case to consider each such request for review. The ad hoc committee shall have the power to decide whether or not such request for review by a panel of the national review board shall be granted. The ad hoc committee's decision shall be final and subject to no further review. If such request for review is allowed, a panel of the national review board as constituted as set forth in the resolution under section 3.6.2.3 of the bylaws shall review the decision of the regional trial board in accordance with the rules of the joint trial board division. On such review, the panel of the national review board may affirm, modify, or reverse all or any part of the decision of the regional trial board or make such other disposition of the case as it deems appropriate.

The national review board may by general rule indicate the character of reasons which may be considered to be of sufficient importance to warrant an ad hoc committee granting a request for review.

(e) Any decision of any panel of the national review board including any decision of an ad hoc committee shall become effective when made, unless the decision of the panel or committee indicates otherwise, in which latter event it shall become effective at the time determined by the panel or committee. Any decision of a regional trial board shall become effective as follows:

- (i) Upon the expiration of thirty days after it is made, if no request for review is properly filed within such thirty-day period.
- (ii) Upon the denial of a request for review, if such request has

been properly filed within such thirty-day period and is denied by an ad hoc committee.

(iii) Upon the effective date of a decision of a panel of the national review board affirming the decision of an appropriate trial panel in cases where a review has been granted by an ad hoc committee.

(f) A quorum of any panel or ad hoc committee shall consist of a majority of those appointed, unless otherwise provided in the rules of the joint trial board division.

## **Under Section 7.5 Reinstatement**

### **Resolved:**

(1) That at any time after the publication in a membership periodical of the Institute of a statement of a case and decision, on application of the member concerned, the appropriate panel of either the regional trial board or the national review board which last heard the case and whose decision provides the basis for the publication, may, by a two-thirds vote of the members present and voting, recall, rescind, or modify such decision, which action shall be published in the membership periodical of the Institute. The denial of an application under this section shall not prevent the member concerned from applying for reinstatement under section (2) hereof.

### **(2) That**

(a) Should a judgment of conviction or an order of a governmental authority on which the suspension or termination of membership was based under section 7.3 of the bylaws be reversed or otherwise set aside or invalidated, such suspension shall terminate or such member shall become reinstated when a certified copy of the order reversing or otherwise setting aside or invalidating such conviction or order is filed with the secretary of the joint trial board division, who shall refer the matter to the professional ethics division for whatever action it deems appropriate.

(b) A member who has been suspended or expelled by the joint trial board division pursuant to section 7.4 of the bylaws may request that the suspension terminate or may request reinstatement if a judgment of conviction, an order or finding of any court, or an order of the governmental authority on which the suspension or expulsion was based has been reversed or otherwise set aside or invalidated. Such request shall be referred to the joint trial board division whereupon a hearing panel of the national review board composed of five members designated by the chairman of the national review board may, after investigating all related circumstances, terminate

the suspension or reinstate the member concerned by a majority vote of the members present and entitled to vote.

(c) Except as provided in subparagraphs (a) and (b) of this paragraph (2), a member whose membership has been automatically terminated under section 7.3, or who has been expelled by or had his resignation accepted by a panel of the joint trial board division may, at any time after three years from the effective date of such termination, expulsion, or acceptance of resignation, request reinstatement of his membership. Such request shall be referred to the joint trial board division, whereupon the chairman shall designate five members of the national review board to a hearing panel which may, after investigation, reinstate such member on such terms and conditions as it shall determine to be appropriate. If an application for reinstatement under this subparagraph is denied, the member concerned may again apply for reinstatement at any time after two years from the date of such denial.

#### **Under Section 7.6 Publication of Disciplinary Action**

##### **Resolved:**

That notice of disciplinary action taken under section 7.3 or 7.4 of the bylaws and the basis therefor shall be published in a membership periodical of the Institute. In the case of a suspension or termination pursuant to section 7.3 of the bylaws, such notice shall be in a form approved by the chairman of the trial board and shall disclose the name of the member concerned. In any action pursuant to section 7.4 of the bylaws, the trial board or sub-board hearing the case shall decide, by a majority vote of the members present and voting, on the form of the notice of the case and the decision to be published which shall disclose the name of the member involved when the member is found guilty. The statement and decision, as released by the chairman, trial board, or hearing panel, shall be published in a membership periodical of the Institute. No such publication shall be made until such decision has become effective.